EXHIBIT "A"

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	Chapter 11
	Case No.: 20-10343 (LSS)
BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC,	(Jointly Administered)
Debtors.	
OFFICIAL TORT CLAIMANTS' COMMITTEE OF BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC,	Adversary Proceeding No.: 21-50032 (LSS)
Plaintiff,	
v.	
BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC, A.A., *et al.*,	Courtroom 2 824 Market Street Wilmington, Delaware 19801
Defendants.	Thursday, August 19, 2021
	3:00 p.m.

TRANSCRIPT OF ZOOM HEARING
BEFORE THE HONORABLE LAURIE S. SILVERSTEIN
CHIEF UNITED STATES BANKRUPTCY JUDGE

(APPEARANCES CONTINUED)

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(Proceedings commenced at 3:00 p.m.)

THE COURT: Good afternoon, counsel. This is Judge Silverstein. We're here in the Boy Scouts of America bankruptcy case, case number 20-10343. Thank you for gathering on short notice. I am going to read my decision from the bench. I will say if I had more time, it would probably be more concise, so I apologize in advance for the length.

Boy Scouts of America is a not-for-profit organization whose mission is to train youth in responsible citizenship, character development, and self-reliance through participation in a wide variety of outdoor and educational activities.

Notwithstanding its mission, pre-petition, Debtors were defendants in numerous lawsuits relating to sexual abuse in scouting programs. Debtors filed these cases because of the abuse claims with two objectives in mind: Equitable compensation of victims of abuse in Scouting and maintaining Scouting's mission.

At that time, Debtors were aware of approximately 1,700 asserted abuse claims. There were over 80,000 nonduplicative proofs of claim filed in these cases. Debtors had hoped to proceed expeditiously through a bankruptcy proceeding. Unfortunately, this is Month 18 of the bankruptcy case.

Before me is Debtor's motion for permission to enter into a restructuring support agreement as it has been amended with the Official Tort Claimants Committee, the self-named Coalition of Abused Scouts for Justice, the Future Claimants Representative, and an ad hoc committee of Local Councils. The RSA has also been signed by numerous consenting State councils. The Debtors hope further consenting State Council will sign on.

Broadly speaking, the RSA requires Debtors to pursue a plan of reorganization that conforms to a term fee attached to the RSA. As for Debtors, the RSA and/or term sheet provide for a $250 million contribution to a trust for holders of direct and indirect abuse claims under a plan.

The RSA also requires that the plan pursued by Debtors contain various findings and orders, including certain findings blessing trust distribution procedures and values established by them, insurance assignment, and other insurance-related provisions and good-faith findings.

As for the ad hoc committee of Local Councils, it is required to use its reasonable efforts to persuade all Local Councils chartered by Boy Scouts to contribute in the aggregate 600 million, consisting of cash, property, and an interest-bearing variable payment note issued by a Delaware statutory trust.

As for the State Court counsel, they are to use

their respective reasonable efforts to advise and recommend to their clients, the holders of direct abuse claims, that they accept the plan reflected in the term fee. They are also to provide information to council to who are not parties to the RSA so that those other parties can make meaningful and informed voting decisions on the plan.

As for the TCC Coalition, FCR, and State Court counsel, they are to cooperate in good faith with Debtors in connection with the plan and agree to support and/or seek as appropriate stays of certain motions currently pending before the Court, including the estimation motion and the restricted assets adversary.

The RSA and/or term sheet contain certain outs or termination events. A key event is the ability of each party to terminate the RSA if any protocol for addressing chartered organizations is not satisfactory to it. The term sheet also requires that any settlements with a chartered organization or an insurance company have unanimous approval.

No chartered organizations or insurance companies are currently parties to the RSA. While not signatories to the RSA, JPMorgan, Debtor secured creditor, and the creditors' committee support the RSA. Importantly, Debtors have a fiduciary out.

In addition to those provisions, which I will call somewhat typical, there are three additional provisions of

the RSA and/or proposed form of order that were the subject of much discussion during the argument. First, the RSA requires a finding in the RSA approval order that the RSA parties have been engaged in extensive good-faith, arm's-length negotiations and Court-ordered mediation regarding the terms of the plan.

I question whether I could make such a finding given the scope of the RSA hearing and relevant standards. I also questioned what a finding of good faith means in this context. During the hearing, the RSA parties withdrew the request for a good-faith finding, so that is no longer an issue.

Second, the RSA provides for the payment of the fees of coalition professionals. As will be discussed, I am not approving that at this time.

Third, the RSA provides that the RSA approval order contain a finding and conclusion that, "Debtors have no obligation to seek approval of and have no obligations under the Hartford Settlement." I cannot make the finding and conclusion requested. As I'll discuss, the clear import of these findings is that Hartford has no damages, and I cannot, and as importantly, should not, make that determination at this time in this context.

Approximately, 50 objections, reservation of rights, or joinders to objections have been filed by a

variety of parties, including insurers, chartered organizations, and groups of individuals holding direct abuse claims. I've reviewed the filings and the exhibits, and this is my decision.

Starting with the Debtor's business judgment. The motion was brought under Section 363 of the Bankruptcy Code, and I find that Debtors have met the relevant standard. The business judgment standard applies to a review of the Board's consideration of a transaction unless the objecting party can establish by competent evidence facts to support a heightened standard. I cite to In re: LATAM Airlines Group SA, 620 B.R. 722 out of the Bankruptcy Court in the Southern District of New York in 2020, which holds that transactions with insiders are by definition subject to a heightened standard.

And for the Delaware State Law standard, which is informative, I cite to Shabbouei v Laurent, a Chancery Court decision, 2020, Delaware Chancery Lexis 121, April 2nd, 2020, which in turn cites to Aronson v Lewis, 473, A.2nd 805 out of the Delaware Supreme Court in 1984. These cases hold that transactions are subject to a heightened scrutiny where a majority of the board is interested in the challenged decision, or the decision was not a product of valid business judgment.

Here, Century and the Certain Insurers contend that the BSA Board was conflicted. The Certain Insurers

contend that, "The Local Councils had complete and total control over the Debtor's corporate governance electing the representatives" and that these representatives were the ones who evaluated and approved the RSA. The Certain Insurers also contend that heightened scrutiny is necessary because the Debtor's directors and officers failed to familiarize themselves with the RSA.

Century identifies the self-interested provisions of the RSA to be that each member of the National Executive Council and Debtors Board benefits from the third-party releases granted to the Local Councils with which they are affiliated and are protected parties. And second, the controlling Local Councils themselves benefit from the third-party releases as do their own respective officers and directors.

While pointing to the releases to support a conflict, the provisions of the RSA that both Century and Certain Insurers focus on are the purported lack of insurance neutrality, the provisions of the TDPs, and the lack of any settlements with Chartered Organizations.

The National Executive Board of the BSA is comprised of 72 members, an unusually large board. The members of the National Executive Board are selected by the National Council, which is comprised of 1,200 individuals, many nominated by Local Councils. Those 1,200 members

include the 72 board members themselves, the President and Council Commissioner for each of the 251 Local Council, slots based on youth members in each council, and various volunteers.

As for responsibilities, the National Executive Board delegated responsibility for managing the affairs of the Boy Scouts of America to the Executive Committee with a few exceptions, one of which is the incurrence of debt which was reserved to the Board. The Executive Committee is made up of 12 individuals who are all Board members. As of May 2020, no member of the Executive Committee was permitted to simultaneously serve on a Local Council Executive Board.

The National Executive Committee formed a Bankruptcy Task Force in July 2020. Mr. Desai is one the five members of the Bankruptcy Task Board and is also a member of the National Executive Committee and the National Executive Board. The Bankruptcy Task Force was created to assist the Executive Committee in their governance responsibilities by working with BSA General Counsel and monitoring the progress of the bankruptcy case, helping to the keep the Executive Committee informed so it could perform its governance role.

Mr. Desai testified that Debtors were aware of potential conflicts with the Local Councils as it relates to the BSA bankruptcy and so took steps to avoid them. On

February 7, 2021, the National Executive Board met with their advisors to discuss this issue. After that meeting, each Board member was asked to resign from his or her Local Council or recuse him or herself from decisions that may impact Local Councils.

Mr. Desai testified that he is not aware of any Board member that served on a Local Council who voted on merits at issue in the RSA. The insurers argue that because the National Council elect the 72 members of the Board, the directors are conflicted.

But Delaware law has long held that a director is not interested simply because he was voted or selected by a particular faction.

As for overlapping membership on the National Executive Board and a Local Council Board, the evidence is that directors had to resign from Local Council Boards or recuse themselves from decisions where there may be adversity. There are no overlapping roles at the Executive Committee or Bankruptcy Task Force levels. Certain Insurers also point to the longstanding relationships between Board members and Local Councils. They asked me to draw the commonsense conclusion from the relationships that BSA directors must be interested. I understand the argument and have considered it. Financial incentives may not be the appropriate consideration here. I am persuaded, however,

that the Board took appropriate precautions and reminded Members of the need to recuse themselves as necessary.

But even if Board members are conflicted, and I did not conclude that, I do not find that the Boy Scouts and the Local Councils are actually adverse to each other with respect to the RSA. The Boy Scouts of America and the Ad Hoc Committee of Local Councils are two of five parties to the RSA.

The third party releases in favor of the Local Councils that are the focus of the disinterestedness argument were not negotiated by Boy Scouts of America. Rather, the third-party releases and the $600 million Local Council contribution were negotiated between the Ad Hoc Committee of Local Councils and the Plaintiff's representatives, namely the Tort Claimants Committee, the FCR, and the Coalition.

In other words, those providing the releases negotiated the terms, so I do not see Boy Scouts on both sides of this aspect of the transaction. What happened here was exactly what should happen. The parties with the alleged liabilities each negotiated their own contribution.

As for any releases being granted by the Boy Scouts to the Local Councils, which no one really raised except in argument, there the Boy Scouts and Local Councils would be adverse, but again, what happened was exactly what should happen. The fiduciaries of the estate, the TCC, and

FCR either negotiated the transaction or are presently supporting the resolution.

Finally, on this front, the question of whether the Board was conflicted in the RSA transaction is interesting because ultimately, the third-party releases and any other benefits that Local Councils may receive will be tested in the plan context. As discussed during argument, Debtors can file the plan contemplated by the RSA whether I approve the RSA or not. If the plan is proposed, then, the third-party releases will be tested by the applicable standard.

Judge Garrity's decision in LATAM Airlines is informative in how it contrasts to the scenario before me. That case is distinguishable in at least three respects.

First, the order presented to the Court was not an interlocutory order, as is the order before me. Judge Garrity was asked to approve the terms of a DIP facility. In contrast, any order I would enter on the RSA does not approve any term of the plan embodied in the term sheet or speak to any confirmation standard.

Second, as I've already discussed, I do not see insiders on both sides of the transaction. Third, the objectors in LATAM Airlines objected to the portions of the DIP facility that favored the insiders, that is the third tranche of the DIP. They did not use the existence of a

conflict with the insiders to object to a tranche of the DIP not funded by the insiders.

Here, to my recollection, at no point in this case had the insurers objected to third-party releases, Debtor releases, or the Local Council contribution. Rather, the insurers' objections throughout the entire BSA case, including here, have been consistent. The insurers contend that the plan cannot be confirmed because it is not insurance- neutral. As stated in Century's objection, the plan is, "Affirmatively insurance prejudicial." Further, the insurers contend that Debtors have conceded control of the TDPs to the Abuse Survivors Representatives and have abdicated their obligation under the insurance policies to cooperate with insurers.

A recently added objection that Debtors have not yet brought the chartered organizations into the mix is, in essence support for yet further third-party releases. None of these objections go to any provision of the RSA or term sheet that purportedly improperly favor Local Councils.

While I'm not going to go through Judge Chapman's decision in In re Innkeepers USA Trust, 442 B.R. 227, out of the Bankruptcy Southern District New York 2010, it is highly distinguishable, including that Debtors sought approval of the RSA at an early stage of the case, the RSA was one -- was with one creditor, it precluded Debtor from shopping the

company, Debtor had not canvassed any alternatives, and Debtor did not have an effective fiduciary out.

This case is not in its infancy. Debtors have negotiated with the Unsecured Creditors Committee and JPMorgan. The RSA is signed by State Court counsel who have represented to the Court that they represent in excess, I think, of 70,000 claimants, but I know it's at least 60,000 claimants, and Debtors have a fiduciary out.

The insurer's second argument for a higher standard is that Debtors have failed to inform themselves. The clear evidence is to the contrary. While the Board's process may not have been perfect, there is no question the Bankruptcy Task Force, which was tasked with all things bankruptcy, was informed. The Bankruptcy Task Force kept the National Executive Committee informed, and the Board was informed by both.

Mr. Desai, who was a very credible witness, testified that the National Executive Board, the National Executive Committee, and the Bankruptcy Task Force met a combined total of 57 times over a seven- month period. At all levels, Debtors had the advice of their respective professionals, and they received several presentations. Directors were engaged.

Topics included the Chapter 11 cases, the progress of the mediation, including which groups had and had not yet

been a focal point in the mediation, the BSA contribution, the effect of the BSA contribution, and the DST note on Boy Scouts go-forward operations, and the impact of the JPM debt.

There were discussions of plan options, including a discussion of the pros and cons of dropping the toggle plan and having a deal with the coalition, the TCC, and FCR, and whether these groups would be able to resolve concerns over the Hartford deal.

And there was discussion of Boy Scouts' relationship with the Local Councils and some discussion of chartered organizations. Minutes also reflect the term sheets were circulated.

Insurers focus most on the fact that Mr. Ownby, chair of the Board, testified that he didn't review the RSA before it was signed, and Mr. Mosby, president and chief executive officer, was not involved in discussions around the TDPs. Mr. Ownby also testified that the Board had discussions about the major elements of the RSA, the Board had been presented with numerous documents since the filing of the bankruptcy case leading up to the signing of the RSA, and the Boy Scouts had advisors with respect to claim procedures.

Mr. Desai and the Bankruptcy Task Force had the RSA and the TDPs. And the Board gave Mr. Mosby permission to move forward with the RSA under certain parameters, including

providing a mechanism for reaching out to chartered organizations. Also, Mr. Mosby testified in his deposition succinctly but comprehensively as to why he thinks the RSA is the best path forward for Boy Scouts and that this is a step toward a global resolution.

Insurers also focus on the fact that Debtors did not receive or review any invoices from coalition professionals. Mr. Whitman testified he based his advice on the coalition's fees, on his experience as a professional in the bankruptcy arena, and the fees of other professionals in the case.

Others assert that there was little consideration of the chartered organizations and the loss of membership on the BSA going forward. Many of the objectors attacked the plan as not confirmable.

The RSA as illusory. But there is no -- as illusory because there is no signature of actual creditors, and the RSA -- let me start this over.

Others assert that there was little consideration of the charted organization and the loss of membership on the BSA going forward. Many of the objectors attacked the plan as not confirmable, the RSA as illusory because there is no signature of actual creditors, and that the BS -- and that the RSA is the wrong way to build consensus. Finally, objectors point to a lack of a board resolution or one board

resolution approving the entire RSA.

Having reviewed the evidence, I conclude that Debtors were sufficiently informed to make this decision. And while a specific resolution would have been preferable, the evidence is clear that Debtors approved the transaction. Because I make these conclusions, I also conclude that objectors have met their burden to show the entirely -- have not met their burden to show the entirely fair standard applies. In turn, this leads to the conclusion that Debtors have met their burden under Section 363.

Debtors want me to approve an RSA, which they believe is the best path forward to build consensus with as many non-RSA parties as possible. While the signatories are not creditors, the RSA parties have obligations to use their reasonable efforts to achieve their obligations under the RSA. Objectors disagree with Debtors assessment, contending that the RSA will hinder further resolutions.

As I said in argument, a Court is particularly ill-suited to address strategic business decisions such as this one. Debtors may ultimately be wrong in their assessment, but that is not the test of business judgment. While in the words of Ms. Lauria, unless there are further resolutions, this case is headed toward an epic confirmation fight. Debtors choice of which fights to have is due some deference. Ultimately, whether any plan is confirmable is my

decision.

With the two exceptions I'm about to discuss, I conclude that Debtors have met the standard under Section 363 for approval of the RSA.

I'll turn to the coalition fees. While the RSA is in effect, Debtors agree to pay on a go-forward basis the "reasonable, documented, and contractual" fees and expenses of the coalition's professionals on a monthly basis. On the effective date of a plan, Debtors are to either reimburse State Court counsel for amounts they have already paid to the coalition's professionals or pay directly to those professionals amounts that are owed by State Court counsel up to $10.5 million.

Amounts otherwise payable in excess of that cap are to be paid by the settlement trust after the effective date. By a revised proposed form of order, Debtors have made these payments subject to procedures for estate professionals with respect to interim compensation, and there are other restrictions on the scope of services that can be compensated.

I agree with Judge Dorsey's recent analysis of the 363.503 issue in Mallinckrodt. Debtors can use Section 363 as a vehicle to bring a request to pay fees of a creditor while a creditor's request is properly brought under Section 503(b). But in either event, the standard to apply is a 503

standard, the requirement to find a substantial contribution.

Here, I have several concerns that cause me to deny the request at this point in time. First, the coalition's members are abuse victims, the very same constituency that the Official Committee of Tort Claimants represents. The logical question is whether services are being duplicated.

While coalition counsel argues that there is now consideration between the coalition, the official committee, and the FCR, something that I can see in the filings before me, that does not ensure lack of duplication.

Second, in connection with the Rule 2019 motion directed at the coalition and its request to become a mediation party, there was much discussion regarding how the coalition would work and who would pay for it. I have reviewed the coalition's filing, Docket Item 1429, and it states in bold print, "Coalition counsel are being paid by State Court counsel. Coalition members will not in any way be responsible for the fees of coalition counsel."

The cost of the coalition's professionals was to be borne by the State Court counsel who formed the coalition, not their clients. Payment by Boy Scouts and certainly any payment by the investor trust comes directly or indirectly out of their client's pockets and, indeed, the pockets of all abuse victims. While one can argue that on a relative scale

that's not that great, any funds diverted from abuse victims, especially to pay an obligation of their lawyers, needs to be closely examined.

Third, it needs to be clear that the coalition is making a substantial contribution.

Debtor's testimony is that the benefit to having the coalition at the table is that State Court counsel represent in excess of 60,000 abuse victims. Debtors can, therefore, negotiate with a single entity, the coalition and its State Law counsel, rather than numerous counsel to abuse victims.

Further, as evidenced by the RSA itself and the obligations of the State Court counsel, the belief is that their clients will vote in favor of a plan. But that has yet to occur.

Further, the RSA provides the coalition with numerous termination rights, many of which are subjective. In the circumstances of this case, I think it is necessary to see the outcome of the coalition's efforts. I also note that because of invocation of mediation privilege, there was no evidence on the role of the coalition played in the mediation and in the RSA.

Now I turn to the Hartford objection.

Debtors and Hartford executed a settlement and release agreement on April 15, 2021. It was filed on the

docket on April 16 as an exhibit to the second mediator's report. In the agreement, Hartford and BSA agreed to Hartford's buy-back of its insurance policies for $650 million as adjusted, releases, and mutual cooperation.

There are two options for presenting the settlement to the Court at Hartford's election. First, approval can be obtained through an order confirming a plan of reorganization containing the Hartford settlement.

Second, at any time on 20 days' notice, Hartford can request that BSA file a motion with the Court seeking approval under Section 363 and Rule 9019.

There's no evidence in the record that Hartford made a request for BSA to bring a 363 motion, nor has Hartford filed a motion to -- nor has Hartford filed a motion to enforce the settlement agreement or compelled BSA to file the settlement motion. Rather, BSA filed a second amended plan, which contains both the Hartford settlement and so-called toggle option.

BSA also filed a disclosure statement that was scheduled to be considered for approval on May 19 as part of a very long calendar. After a full-day hearing on other motions, incident exclusivity, derivative standing to sue JPM, and the estimation motion, any remaining motions, including the motion to approve the disclosure statement, were adjourned until the following Monday, May 25.

The hearing did not resume on May 25; rather, I was asked to adjourn the hearing so the mediation sessions could continue. My recollection is that the Tort Claimants Committee objected, but I determined to honor the request that parties go to mediation. My recollection is that there were further adjournments after that. Since parties were in mediation, I did not rule on the motions that had been argued on May 19 at that time. Or I didn't rule at that time or subsequently because they were in mediation. And because the motions were interconnected, I was considering them together.

The disclosure statement related to the plan based on the Hartford Settlement did not continue. Sorry, the hearing on the disclosure statement.

Related to the plan based on the Hartford Settlement did not continue. Rather on July 1, Debtor filed their motion to approve RSA and related plan and disclosure statement. In the RSA, Debtors seek authorization to enter into and perform under the RSA. And they also seek a finding and conclusion that "Debtors shall have no obligation to seek approval of and have no obligations under the Hartford settlement." Debtors acknowledge in their required read that the RSA and the Hartford Settlement are mutually exclusive. Hartford has objected to the motion and the requested findings and conclusions in the proposed form of order on two grounds.

First, it argues that any relief must be sought in an adversary procedure. Second, it argues that Debtors cannot repudiate the Hartford Agreement because the obligation is to seek approval of the agreement as currently binding on Debtors. Hartford draws a distinction between Debtor's obligation to seek approval under the agreement and Debtor's obligation to consummate the agreement which Hartford agrees Debtors cannot do until the Court approves the settlement. Hartford argues Debtors conflate the two concepts.

In its reply brief, Debtors acknowledge that there's not a consensus on the issue of whether a settlement agreement is enforceable before it has been approved by the Court. The Debtors argue that the better reasoned view is that it is not. Even so, Debtors contend that they have complied with their affirmative obligations under the Hartford settlement agreement to the extent possible.

Debtors have also incorporated the Hartford Settlement into the fourth amended plan. But now they say they need guidance from the Court due to change circumstances.

The Debtors argue that the existence of the RSA now creates conflicting duties, a duty to Hartford under the Hartford settlement agreement and its fiduciary duty to all other creditors. At argument, Debtors took an entirely new

position. They argued that by its terms, the Hartford Agreement is not currently effective and that none of its provisions, save one perhaps, are currently operable because conditions precedent to effectiveness have not been met.

The coalition, FCR, and TCC filed a joint reply to Hartford's argument. They, too, contend that circumstances have changed and "as evidenced by the motion itself" it is clear that the plan is no longer commensurate with Debtor's fiduciary duties. They argue that there is now an agreement with broad creditor support, and if Debtors pursue the Hartford agreement, the RSA will be extinguished, and the survivor groups will oppose the Hartford settlement and vote down any plan incorporating it.

The coalition, FCR, and TCC emphasize that with respect to Debtor -- Debtor's obligations under the Hartford agreement "the determining factor is the ability of the Court to find that a settlement is in the best interest of creditors" and that Debtor's should not be forced to solicit a plan where the Court's ability to make the requisite findings for settlement are impaired.

Having reviewed the posture of the cases cited by all parties, I conclude that the issue of Debtor's obligations, if any, is not properly before me. Not one case is in the instant posture. What is before me is the entry into the RSA. A Restructuring Support Agreement memorializes

the material terms of a restructuring plan that one or more parties have agreed to. It provides that the RSA parties will support the implementation of the plan embodied in it.

It is not a vehicle by which the RSA parties can append other requests. In other words, you can't just roll up any relief you want and put it a request to approve on RSA.

What the RSA parties have done here is just that. They seek a ruling or guidance that Debtors have no obligations under another document, the Hartford Settlement Agreement, which is not before me. Further, Hartford has not put its agreement before me. Hartford does not argue that Debtors are forbidden to enter into the RSA by the terms of the Hartford agreement. Hartford has not moved to compel compliance with the Hartford -- Hartford Agreement.

And Hartford is not asking me to force the Debtors to solicit any plan. Rather, Hartford simply argues that I cannot rule on the Hartford Agreement in this context, and to the extent I can, Hartford argues that the finding and conclusions the RSA parties seek are incorrect.

While I do not think that the issue of Debtor's obligations under the Hartford agreement necessarily need to be decided in an adversary proceeding, it's clear the RSA motion is not the proper vehicle. One, the import of the rulings that the RSA parties seek is that Hartford can have

no claim against Debtors. But Hartford has not filed the claim, administrative or otherwise, based on Debtor's breach of the Hartford agreement. I have no context to make a determination of whether any damages Hartford may seek are appropriate.

Two, if Hartford's position is correct that Debtors have an obligation to seek approval of the agreement, Debtors may yet be able to perform.

Assuming Debtors will not seek approval in a plan, Hartford can make a request that Debtors file a 363 motion. Whether that request is made and whether Debtors comply with any such request could either moot the issue entirely or impact on any claimed damages.

Three, Hartford has not placed the merits of the Hartford settlement agreement in front of me nor have the Debtors. In fact, the coalition, the TCC, and FCR filed a motion in limine to preclude any evidence regarding the reasonableness of the Hartford Settlement. So their argument that I can find that it is not in all parties' best interest to solicit a plan containing the Hartford Settlement cannot be made, even if it were appropriate to do so. And, of course, many objectors find fault with the plan embodied in the RSA.

Four, Hartford has not made a motion to compel compliance with or enforce the Hartford agreement. Five,

Debtors raised for the first time at argument that the Hartford agreement is not affected by its terms, that issue therefore was unfairly raised, and it's another reason not to consider the argument now. It may also require evidence. All of this is to say that the request to determine Debtor's obligations -- are conversely Hartford's damages -- is not appropriate in this context.

My conclusion: I have found that the entry into the RSA is a sound exercise of Debtor's business judgment. The parties can proceed with the RSA without the findings regarding the Hartford settlement agreement and fees for the coalition, or not. And, of course, Debtors can file any plan they choose. If there are consequences, they will be addressed in a proper context. If the RSA parties determine they want to proceed under these circumstances, I do have a question on the form of order.

Paragraph E, as in Edward, has me make findings with respect to the non-Debtor parties. I question if I can do that and why I need to. I have no evidence on others' ability to enter into the RSA or whether they are legally authorized to do so. So I do not know the import of this paragraph *vis-a-vis* anyone other than the Debtors. I also recall that Mr. Bookbinder may have objections to certain provisions in the order. So please consult with Mr. Bookbinder and ask chambers to set up a further hearing

to discuss the order, if necessary, if the RSA parties determine to go forward, notwithstanding my ruling.

Let me emphasize the limited nature of my ruling today. I am being asked to approve Debtor's entry into the RSA. I am not approving the term sheet, the fourth amended plan, any disclosure statement, or anything else, and the order I entered today does not suggest that I will do so or need to do so.

As Judge Glenn said in his decision in, In re: Residential Capital, LCC, 2013 Westlaw 328-619(a), Bankruptcy Court Southern District of New York, 2013, this decision interlocutory. So that concludes my ruling.

Again, I apologize for the length and that you had to sit there. I hope it was clear enough. I realize things -- I realize verbal decisions are often hard to follow, but I've noted that parties have been getting transcripts rather quickly. Also, if -- when I read the transcript I determine that I should put my bench ruling on the docket, I will -- I will do so.

That is all I have for today. I note that we are back here Wednesday. I've got it down as an omnibus. But I also have it written down as the disclosure statement hearing. I guess what I will need to know, what all -- all parties will need to know as soon as possible is whether, in fact, the Debtor intends to go forward, given my ruling on

the RSA. So I think it would help if you put something on the docket with respect to that -- with respect to that.

MS. LAURIA: Your Honor, this is Jessica Lauria.

We obviously in the circle of internally, thank you for your ruling and thank you for ruling so quickly.

With respect to the RSA, I'm sure that was a monumental task that we're having three days of hearing in the volume of documents but we very much appreciate that. We will circle up and then we will get back to the Court ASAP and other parties.

THE COURT: Thank you very much then we are adjourned.

COUNSEL: Thank you, Your Honor.

(Proceedings concluded at 3:50 p.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

/s/ Wendy Sawyer August 19, 2021

Wendy Sawyer, CDLT

Certified Court Transcriptionist

For Reliable